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10/825,769	04/16/2004	James R. Anthony	2835-74916	8807

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EXAMINER
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MACARTHUR, VICTOR L

ART UNIT	PAPER NUMBER
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3679

MAIL DATE	DELIVERY MODE
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05/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/825,769

Applicant(s)

ANTHONY ET AL.

Examiner

Victor MacArthur

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) 5, 7 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 8 and 10-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Previous Office Action***

The previous Office Action mailed on 12/11/2006 contained a typographical error. Specifically the heading of the rejections under 35 U.S.C. 102(b) incorrectly refers to the prior art reference Anthony (U.S. Patent 6,425,632) rather than the intended reference Anderson (U.S. Patent 1,273,717). The examiner has determined that it is not necessary to resubmit the previous Office Action since the rejections of the claims themselves correctly refer to Anderson and the applicant correctly assumed the grounds of the rejection of claims 1-4, 6, 8, 10-21, 23-25, 28-37 and 39 to be rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (U.S. Patent 1,273,717) despite the typographical error referring to Anthony. See last paragraph on page 12 of applicant's remarks filed 3/12/07, which state "the office action meant to cite the '717 patent to Anderson rather than the '632 patent to Anthony. This response is premised upon such premise".

### ***Election/Restrictions***

Claims 5, 7 and 9 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/10/2006.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sound chip (claims 26 and 38), illumination device (claim 27) and each of the amusement park characters, cartoon characters, comic book characters, movie characters, literary characters, TV characters as well as each of the dog breeds recited throughout the claims must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8, 10-21, 23-25, 28-37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Anderson (U.S. Patent 1,273,717).

Claim 1. Anderson discloses (figs.1-4) a coupling device for attaching to an anchor member, the coupling device comprising: a frame (2, 3, 4, 14) having a distal end (2, 3) defining a mouth (mouth defined within 2, 3) configured to receive the anchor member; a lever (8, 10) having a distal end (bottom end of 10), the lever being movably mounted to said frame at a mounting location (9) and having an open position (dotted line of figure 2) to allow the anchor member to be received within the mouth and a closed position (solid line of figure 2) to retain the anchor member within the mouth; a biasing member (13) urging the lever toward the closed position; and wherein the lever includes a manipulation portion (10) between the distal end of the lever and the mounting location, and wherein a user applies a direct pushing force to the manipulation portion in order to move the lever into a lever void (void between 2 and 3 receiving 10) defined by the frame to move the lever to the open position.

Claim 2. Anderson discloses the coupling device of claim 1 wherein the lever pivots about a mounting member (6) provided on said frame moving between said closed position and said open position.

Claim 3. Anderson discloses the coupling device of claim 2 wherein the distal end substantially covers the mouth in the closed position.

Claim 4. Anderson discloses the coupling device of claim 3 wherein the lever has a proximal end (top end of 8) opposite the distal end of the lever and wherein the mounting member mounts the lever to the frame substantially toward the proximate end of the lever.

Claim 6. Anderson discloses the coupling device of claim 3 wherein the biasing member acts between the frame and the lever to urge the lever into the closed position.

Claim 8. Anderson discloses the coupling device of claim 3 wherein the biasing member acts between the frame and a point between the proximal end and the distal end of the lever to urge the lever into the closed position.

Claim 10. Anderson discloses the coupling device of claim 1 wherein the biasing member is a spring.

Claim 11. Anderson discloses that the coupling device of claim 1 further comprising a cover (7).

Claim 12. Anderson discloses the coupling device of claim 1 further comprising a cover (7) formed in a recognizable shape (shape of a head of a dog).

Claim 13. Anderson discloses the coupling device of claim 1 further comprising a cover formed in a recognizable shape resembling at least a portion of an animal's body (head of a dog).

Claim 14. Anderson discloses the coupling device of claim 1 further comprising a cover formed in a recognizable shape resembling an animal's head having a mouth (between ears of 7) configured to receive the anchor member and having ears (ears of 7) configured to be gripped by a user.

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Claim 15. Anderson discloses the coupling device of claim 1 further comprising a cover (7) formed in a recognizable shape resembling a mixed breed dog's head.

Claim 16. Anderson discloses the coupling device of claim 1 further comprising a cover formed in a recognizable shape resembling the head of a fictional character, the head having a mouth (between ears of 7) configured to receive the anchor member and having ears (ears of 7) configured to be gripped by a user.

Claim 17. Anderson discloses the coupling device of claim 16 wherein the fictional character is chosen from the group consisting of amusement park characters, cartoon characters, comic book characters, movie characters, literary characters, and TV characters (in as much as the applicant's elected species is).

Claim 18. Anderson discloses the coupling device of claim 1 further comprising an anchorage (7) carried by the frame.

Claim 19. Anderson discloses the coupling device of claim 18 wherein the anchorage is detachable (upon disassembly) from the coupling device.

Claim 20. Anderson discloses the coupling device of claim 18 wherein the anchorage is movable (i.e., rotatable).

Claim 21. Anderson discloses the coupling device of claim 1 further comprising an anchorage (7) carried by the frame and an elongated member (6) coupled to the anchorage.

Claim 23. Anderson discloses the coupling device of claim 1 further comprising a cover (7), wherein the cover snaps onto the frame.

Claim 24. Anderson discloses the coupling device of claim 1 further comprising a cover (7), wherein the cover is attached to the frame by a fastener (6).

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Claim 25. Anderson discloses the coupling device of claim 1 further comprising a cover (14), wherein the frame and the cover comprise a unitary device.

Claim 28. Anderson discloses the coupling device of claim 1 further comprising a cover (7) formed in the shape of a head, at least a portion (outer portion of 7) of the head being configured to be gripped by a user.

Claim 29. Anderson discloses the coupling device of claim 1 further comprising a cover formed in a recognizable shape resembling a mixed breed dog's head.

Claim 30. Anderson discloses the coupling device of claim 1 wherein the lever is **substantially** (but not completely) S-shaped (in that it forms half an s).

Claim 31. Anderson discloses a coupling device for attaching to an anchor member, the coupling device comprising: a housing (2, 4, 14) formed to resemble the head of a mammal, the head including anatomically representative protrusions (protrusions of 2, 4, 14) and defining a mouth (between 2 and 4) configured to receive the anchor member; a lever (8, 10) movably mounted relative to said housing and having an open position to allow the anchor member to be received within the mouth and a closed position to retain the anchor member within the mouth; a biasing member (13) urging the lever toward the closed position; and the lever including a direct manipulation portion (10) configured to move the lever between the closed position and the open position.

Claim 32. Anderson discloses the coupling device of claim 31, wherein the housing resembles the head of a dog that is an Aberdeen Terrier (in as much as the applicant's elected species does).



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Claim 33. Anderson discloses the coupling device of claim 31, further comprising a frame assembly (3) coupled to the housing and additionally defining the mouth.

Claim 34. Anderson discloses (figs.1-4) a coupling device for attaching to an anchor member, the coupling device comprising: a housing (2, 3, 4, 14) formed to resemble the head of a dog, the head including anatomically representative protrusions (protrusions of 2, 3, 4, 14) and a mouth (mouth receiving 10) configured to receive the anchor member, and the head is a Mixed breed; a lever (8, 10) movably mounted relative to said cover and having an open position to allow the anchor member to be received within the mouth and a closed position to retain the anchor member within the mouth.

Claim 35. Anderson discloses the coupling device of claim 34 wherein the lever includes a direct manipulation portion (10) configured to move the lever to the open position.

Claim 36. Anderson discloses the coupling device of claim 34 further comprising an anchorage (7) carried by the cover, the anchorage configured to mount to the coupling device an elongate member.

Claim 37. Anderson discloses the coupling device of claim 34 further comprising an elongate member (6) coupled to the cover.

Claim 39. Anderson discloses the coupling device of claim 34 wherein the cover is colored (metal color, see cross hatching).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent 1,273,717) in view of Hodgson (U.S. Patent 5,551,380).

Claim 22. Anderson does not disclose an elongated member that is a leash. Hodgson teaches that a clip (structurally similar to Anderson) has utility in fastening an elongated member that is a leash (col. 2, ll.40-45). One of ordinary skill in the art of clips would have known that leashes with clips attached thereon are beneficial for controlling animals. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Anderson clip to fasten an elongated member that is a leash, for the purpose of controlling an animal.

Claim 26 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent 1,273,717) in view of Hodgson (U.S. Patent 5,551,380) and Plotkin (U.S. Patent 6,178,923).

Claims 26 and 38. Anderson discloses a cover (7) but does not disclose a sound chip attached thereto. Hodgson teaches that clips (structurally similar to that of Anderson) have utility in fastening leashes and collars (col. 2, ll.40-45). One of ordinary skill in the art of clips would have known that leashes with clips attached thereon are beneficial for controlling animals. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the Anderson clip to fasten a leash and collar, for the purpose of controlling an animal. Furthermore, Plotkin teaches that such collar-leash-clip assemblies should have sound

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chips for the novelty of imitating animal sounds (col.1- col.2). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to further modify the Anderson/Hodgson collar-leash-clip assembly to have a sound chip, as taught by Plotkin, for the novelty of imitating animal sounds.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent 1,273,717).

Claim 27. Anderson discloses a cover (7) but does not state that the cover has an illumination device. The examiner takes official notice that it is very well known in the art to use illumination devices such as LED (light emitting diodes) for the benefit of facilitating nighttime use. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to attach an LED illumination device to the Anderson cover to facilitate nighttime usage of the Anderson assembly.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (U.S. Patent 1,273,717).

Claim 40. Anderson discloses the coupling device of claim 39, but does not disclose that the metal is colored with black paint. The examiner takes official notice that black paint is very well known in the art to slow corrosion of metal parts. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Anderson metal to be painted black for the benefit of slowing corrosion.

***Response to Arguments***

Applicant's arguments with regard to the claim rejections have been fully considered but they are not persuasive.

**Regarding the drawings**

The applicant argues that 37 CFR 1.83(a) only comes into play under 37 C.F.R. 1.81 such that the 37 CFR 1.83(a) requirement of showing all claimed subject matter does not pertain to subject matter not necessary for the understanding of the invention. This is not persuasive. 37 C.F.R. 1.81 deals with the question of whether or not drawings, as a whole, are required in a specific application in order to be considered complete prior to being given a filing date. See MPEP §608.02 I. Note that mechanical applications including product claims will almost always be required to contain drawings prior being held as complete and assigned a filing date (see MPEP §608.01(o)). In other words 37 C.F.R. 1.81 does not deal with the content of the drawings but rather whether or not drawings are required at all. Since the application was submitted with drawings and the application assigned a filing date, the question of whether or not drawings are required is moot. The question at hand is whether or not the content of the applicant's drawings are in compliance with 37 CFR 1.83, which states "The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box)." As the applicant has failed to show the features noted in the objection to the drawings above, as a labeled box or otherwise, the drawings are not in compliance with 37

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CFR 1.83. It has been held that any structural detail that is of sufficient importance to be described in the claims must be shown in the drawing. (Ex parte Good. 1911 C.C. 43, 164 O.F. 739 (Comm'r Pat. 1911).)

### **Regarding the claim rejections**

Regarding claim 1, the applicant argues that Anderson shows a lever 10 that moves into the mouth itself as opposed to a separate void as required by claim 1. This is not persuasive. Note that applicant's own invention includes a lever (114) that has a portion (tip of 114) that is received in a mouth (36). Anderson discloses a lever void (void portion between 2 and 3 receiving 10) and a mouth (entire area between 2 and 3). The phrase "separate" is not present in the claims, nor is there any other limitation specifically forbidding a mouth from having a portion that is a void.

Regarding claims 31 and 34, the applicant argues that Anderson's art resembles a hook rather than the head of a mammal as claimed. This is not persuasive. Mammals are defined as warm-blooded higher vertebrates that nourish their young with milk secreted by mammary glands and have the skin more or less covered with hair in accordance with Merriam-Webster's Collegiate Dictionary Tenth Edition. Note that there is nothing about the applicant's own invention that would indicate any such mammalian features (i.e., it has no hair, etc.) Accordingly, the prior art resembles a head of a mammal in as much as the applicant's own invention does (i.e., it has a mouth with jaws as a mammal would). If the applicant intends for the limitation "formed to resemble the head of a mammal" to specially define some specific

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dimension, shape, etc., then the specification must be amended to include such a special definition. The applicant has failed to point out any description of a mammal that specifically precludes resemblance to a hook. No such special definition is present in the applicant's disclosure, nor in the prior art. Currently, the scope of the term "resemble the head of a mammal" is broad enough to include any housing that has a mouth with jaws (as a mammal would).

Nevertheless, the ornamental shape of the housing is of little consequence in a utility patent application. Specifically, a utility patent protects the way the article is used and works. If protection is desired on how the article looks, then a design patent application should be filed. In the instant case, there is no utility to the housing looking like any particular animal, fictional character, etc., and none will be inferred.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

VLM

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May 24, 2007



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